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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,001	05/14/2001	Michael R. Oldenburg	14036	1209

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DORSEY & WHITNEY LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
50 SOUTH SIXTH STREET  
MINNEAPOLIS, MN 55402-1498

EXAMINER
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PATEL, VISHAL A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

  <b>Office Action Summary</b>	<b>Application No.</b> 09/855,001	<b>Applicant(s)</b> OLDENBURG, MICHAEL R.	
	<b>Examiner</b> Vishal Patel	<b>Art Unit</b> 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/18/05.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 and 39-102 is/are pending in the application.
- 4a) Of the above claim(s) 1-36, 62 and 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-61 and 64-102 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f):
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 66 recites the limitation "the at least one structure" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 39, 42-43, 49-50, 52, 55-56, 59-60, 64-68, 70-72, 73-74 and 78-79 are rejected under 35 U.S.C. 102(b) as being anticipated by Cook et al (5,704,719).

Regarding claims 39, 42-43, 49-50, 52, 55-56, 59-60, 64-68, 70-72, 73-74 and 78-79:

Cook discloses a method for sealing a dynamic shaft assembly containing a bore (bore in 12) for receiving a seal, comprising: providing a seal comprising a face plate (29a), a filter material (felt 50) between an inner (flange of 36a that contacts the shaft) and an outer portion (portion of 25a that contacts the bore) of the seal, a first flange extending radially inwardly from the outer portion, a first elastomeric lip extending radially inward from the first flange (flange one of lips

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28, figure 5) and an elastomeric main sealing lip extending radially inward from the first flange (second of lip 28 that contacts 25a), wherein the faceplate is operably coupled to the outer portion (intended use) and placing the seal into the bore. The seal further comprises a second elastomeric lip extending radially inward from the faceplate (last lip 28 that contacts 29a).

A seal for sealing a dynamic shaft assembly comprising a sleeve (sleeve that is attached to 16a) adapted to be disposed generally coaxially around a shaft (intended use), a casing (25a) adapted to be generally arranged to surround the sleeve (intended use), a filtering material in contact with a portion of the sleeve and a portion of the casing (filter material contacts 29a and 38a). The seal having a first flange (38a) extending radially from the sleeve and the first flange is the portion of the sleeve in contact with the filtering material (38a contacts the first flange).

The seal comprising a faceplate (29a) extending radially inwardly from the casing and the faceplate is the portion of the casing in contact with the filtering material (29a is the faceplate and in contact with the filtering material). A first flange (flange opposite of 29a) extending radially inwardly from the casing and a first elastomeric lip extending radially inward from the first flange (one of lip 28 that contacts 25a).

The faceplate has an inside face and an outside face. The first flange having an inside face and an outside face. The filtering material between the outside face of the first flange (outside face of 36a) and the inside face (inside face of 29a that is in contact with one of the lips 28) of the faceplate. The seal having a second flange (second flange that is opposite of 29a) extending radially inward from the outer portion and a perimeter lip (one of 28 that is contacting the second flange) extending radially inward from the first flange. The at least one structure and the perimeter lip are constructed of elastomeric material (lips 28 are formed of elastomeric

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material). The seal further comprises a main seal lip (second of lip 28). The main lip is biased (biased by the material resiliency). The seal further comprises at least one excluder lip (third of 28). At least one flexible member extending radially outwardly from the sleeve flange (39a or 38a).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 47-48, 54 and 71-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook in view of Fedorovich et al (US. 4,552,367).

Cook discloses the invention substantially as claimed above but fails to disclose the outer portion and the inner portion are covered with an elastomeric coating. Fedorovich teaches to have an inner and an outer portions of a seal (inner portion 108 and outer portion 102 which are covered by an elastomer) to be covered by an elastomer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the outer portion and the inner portion of Cook to have a covering of elastomer as taught by Fedorovich, to provide a seal between the outer portion and a housing and the inner portion and a shaft.

7. Claims 39-61 and 64-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dossena et al (US. 6,450,503) in view of Forch (US. 4,277,072).

Dossena discloses a seal providing a sleeve having a portion that mounts on a shaft (2) that has an elastomeric portion (43 that contacts a shaft), a casing (3) having a portion that

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mounts in a bore (not shown) that has an elastomeric portion (elastomeric portion above 3 that contacts a bore), a faceplate (23) that is part of the casing, a first flange that extends inwardly from the casing having a main sealing lip and a first elastomeric lip (lips of 11 that contact sleeve), a second flange (flange of 2 that has lips 40, 35 and 39) that extends outwardly from the sleeve having a second elastomeric lip (lip 40) that extends radially inwardly from the second flange, a third and forth elastomeric lips (lips 35 and 39) that extends radially outwardly from the second flange, the face plate having an inside surface (surface that contacts 35) and an outside surface (surface opposite the inside surface) and the second flange having an inside surface (lip 11 contacts an inside surface) and an outside surface (outside surface opposite the inside surface of the second flange).

Dossena discloses the invention substantially as claimed above but fails to disclose that a filtering material portion that is in contact with an inside face of the face plate and is rotationally displaces relative to the face plate and is between the faceplate and the sleeve. Forch discloses a seal having a primary sealing lip (4), a faceplate (a flange that extends radially inwardly from 1) having an inside face (inside face that contacts a filter or filtering material 3) and a flange (flange 13) of a sleeve (2), a filter material placed in contact with the faceplate and mounted to the sleeve so as to rotationally displaces relative to the faceplate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the seal of Dossena to have a filter or filtering material to be placed on a flange of the sleeve and to be in contact with a faceplate as taught by Forch to provide a labyrinth seal as well as to filter the oil and replace the oil in the filtering material (column 4 of Forch).

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***Response to Arguments***

8. Applicant's arguments with respect to claims 39-61 and 64-102 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

**Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:** 703-872-9326, for formal communications for entry before Final action: or,  
703-872-9327, for formal communications for entry after Final action.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive,  
Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP  
March 14, 2005

A handwritten signature in black ink, appearing to read "Alison Pickard", written in a cursive style.

ALISON PICKARD  
Primary Patent Examiner  
Tech. Center 3600